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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/713,736	11/15/2000	Gene A. Frantz	TI-29089	3502

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EXAMINER

GESESSE, TILAHUN

ART UNIT PAPER NUMBER

2684

[Handwritten mark]

DATE MAILED: 06/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/713,736

Applicant(s)

FRANTZ, GENE A.

Examiner

Tilahun B Gesesse

Art Unit

2684

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) 2-7, 11, 22-30, 34-37, 41 and 44-50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 12-21 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 8-10, 31-33, 38-40, 43 and 51-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This is in response to amendment and response filed February 20,2004, in which claims 1-2,8-10,12-21, 31-33,38-40, 43, 51-54 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2,8-9,31-33,38-39,43,51-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma et al "Ma" in view of Kleiman (US 5,959,945).

As to claim 1, 33,51-54, Ma discloses a method for downloading and paying for content selected from a digital radio transmission (figure 1) comprising the step of: providing a receiver (4 and 6) capable of receiving digital radio transmissions (column 2, lines 8-17) and a storage device (10 and 25) coupled to the receiver (4 and 6); receiving the digital radio transmission at the receiver (a satellite digital audio service receiver 4 and 6), transmitting a request to download the content (column 4 lines 16-28), transmitting information sufficient to allow for payment of the content (column 4, lines 49-67 and figure 1), receiving a transmission authorizing the download of the content (column 4, lines 29-43), and downloading the content to the storage device (column 4, lines 29-43 and figure 1).

Ma does not expressly teach a content agent located remote from the receiver and monitors payment of service and authorizes the download the content. However, Kleiman teaches a personal jukebox selectively requests the transmission of songs from the central storage location using a variety of communication means and central authorizes the request and decrypt and encrypt music and monetary certificates , to prevent improper use or copying of music (abstract, column 5, lines 6-29 ,column 12, lines 27-42). Since, Ma , in a similar art of endeavor, suggests a smart card having a prepaid account balance is employed to authorize and control (abstract , lines 6-7). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Ma and Kleiman in utilizing a central computer or agent to monitor the content being downloaded and monetary fund for the service and prevent copying unauthorized users, as taught by Kleiman , in order to prevent unauthorized users and make sure charges are rendered for the service.

As to claims 2, 32, Ma discloses storing the digital radio transmission in a memory buffer at the receiver (column 4, lines 29-43).

As to claims 8,38, Ma discloses the download request transmission is a wireless transmission (figure 1).

As to claims 9, 39, Ma discloses the wireless transmission is over cellular telephone lines (figure 1).

Claim 31, which recites the steps for implementing the method, in place of claim 1, is rejected for the same reason as set forth in the claim.

As to claim 43, Ma discloses a method for downloading and paying for content selected from a digital radio transmission received by a receiver capable of receiving a digital radio transmission and coupled to a storage device (column 5 lines 33-39), comprising the step of: receiving payment for a selected amount of content in advance of the digital radio transmission (column 5 lines 40-54) receiving a request for download of the content (column 5, lines 33-39) verifying that the selected amount of content has been paid for in advance, and authorizing the downloading of the content to the storage device (column 6, lines 26-33 and figure 2). Ma does not expressly teach a content agent located remote from the receiver and monitors payment of service and authorizes the download the content. However, Kleiman teaches a personal jukebox selectively requests the transmission of songs from the central storage location using a variety of communication means and central authorizes the request and decrypt and encrypt music and monetary certificates, to prevent improper use or copying of music (abstract, column 5, lines 6-29, column 12, lines 27-42). Since, Ma, in a similar art of endeavor, suggests a smart card having a prepaid account balance is employed to authorize and control (abstract, lines 6-7). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Ma and Kleiman in utilizing a central computer or agent to monitor the content being downloaded and monetary fund for the service and prevent copying unauthorized users, as taught by Kleiman, in order to prevent unauthorized users and make sure charges are rendered for the service.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10,40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma et al "Ma" in view of Kleiman and further view of Foladare et al (5,819,160).

As to claims 10,40, Ma and Kleiman do not expressly disclose the download request transmission is made over an internet connection, video content. However, Foladare discloses request transmission is made over an internet and video content (column 3, lines 45-52 and column 4, lines 10-15. Since, Ma , with similar art of endeavor , discloses the encoding scheme follows one of the motion picture expert group (MPEG) (column 3, lines8-9). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Ma , Kleiman and Foladare in transmission of video and internet content to the subscription, as taught by Foladare, since the broadcasting system in a multimedia broadcasting system, which includes video and internet contents.

Allowable Subject Matter

6. Claims 12-21 are allowed over the prior art. The following is an examiner's statement of reasons for allowance: The closest prior art Ma et al (U.S. pat. No. 6,563,805) discloses a system for prepaid recording of digital audio signals 2, via antenna 7, from satellite or terrestrial transmitters and encoded digital signals are fed

into a digital buffer 10 and the prepaid recording of digital audio signals , using smart module accepts smart card.

On the other hand, the present application the receiver includes a buffer suitable for storing a selected time period of the digital radio transmission and a storage device coupled to the receiver and places a flag on a discrete content segment of the digital radio transmission; transmitting a request to download the discrete content associated with the flag; receiving a second digital transmission comprising the discrete content segment associated with the flag. These limitation in conjunction with other limitation in the independent claim has not been disclosed or render obvious over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

7. Applicant's arguments with respect to claims 1-2,8-10,31-33,38-40, have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tilahun B Gesesse whose telephone number is 703-308-5873. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 703-308-7745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2684

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TBG

art unit 2684

June 23, 2004



TILAHUN GESESSE
PATENT EXAMINER